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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,643	11/17/2000	Yoav Raz	EMS-00201	8061
26339	7590	11/07/2005		
MUIRHEAD AND SATURNELLI, LLC 200 FRIBERG PARKWAY, SUITE 1001 WESTBOROUGH, MA 01581			EXAMINER KIM, JUNG W	
			ART UNIT 2132	PAPER NUMBER
DATE MAILED: 11/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/715,643	RAZ ET AL.	
	Examiner	Art Unit	
	Jung W. Kim	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This Office action is in response to the amendment filed on August 31, 2005.
2. Claims 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 are pending.
3. Claims 1, 22, 26, 36, 39 and 47 are amended.
4. Claims 51-54 are new.
5. Claims 9-12, 17, 21, 23-25, 31-35, 37, 38 and 48 are canceled.

### ***Response to Arguments***

6. Applicant's arguments, see Remarks, pgs. 18-23, with respect to 103(a) rejections of claims 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 have been fully considered and are persuasive. Since, the new limitations of the independent claims define subject matter not suggested nor taught by the prior art of record, the 103(a) rejections of these claims have been withdrawn.

### ***Drawings***

7. As specified in the previous office action, the drawings are objected to as being informal. The original drawings are acceptable for examination purposes but applicant will be required to submit formal drawings when a Notice of Allowance is submitted.

***Claim Objections***

8. Claim 51 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The limitation “wherein said antivirus unit accesses at least one of the segments without using any file-based information” of claim 51 is recited in parent claim 1.

9. Claims 5 and 8 are objected to because the subject matter of the claims are identical.

***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**11.** Claims 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 contains the negative limitations “antivirus unit accesses at least one of the segments without using file-based information” [emphasis added] (claims 1-8, 13-16, 18-20 and 51-54) or

"accessing of said at least one part is performed without using file-based information"  
[emphasis added] (22, 26-30, 36, 39-47 and 49-50), but these claims do not have a basis in the original disclosure. The most relevant portion of the Specification, found on pg. 18, 1<sup>st</sup> full paragraph, discloses scanning a multi-host storage device for particular patterns corresponding to viruses without regard to the file structure, file system or file type. However, this disclosure does not teach the step of accessing ... without using file-based information. Other pertinent portions of the Specification disclose accessing a portion of the disk space using a logical disk unit, a cylinder number and a track number (Specification, pg. 11, last paragraph); however, this portion of the Specification is not a proper basis for defining a limitation in the negative, since the features are only disclosed in the positive. See MPEP 2173.05(i).

***Subject Matter not rejected over the Prior Art***

12. The subject matter of claims 1-8, 13-16, 18-20, 22, 26-30, 36, 39-47 and 49-54 are not covered by the prior art of record.

***Communications Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung W. Kim whose telephone number is 571-272-3804. The examiner can normally be reached on M-F 9:00-5:00.

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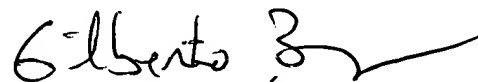
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



November 1, 2005

Jung W Kim  
Examiner  
Art Unit 2132



GILBERTO BARRON JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100